

The House Committee on Natural Resources and Environment offers the following substitute to SB 442:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water  
2 resources, so as to provide a short title; to make legislative findings; to define certain terms;  
3 to provide that the Georgia Environmental Facilities Authority shall issue a request for  
4 proposal for an engineering study to identify interconnections and redundancies so as to  
5 achieve district-wide interconnection within the Metropolitan North Georgia Water Planning  
6 District; to provide for a written emergency water supply plan; to provide for the contents  
7 of such plan; to provide for coordination of activities; to provide for the completion of such  
8 written plan and submission to certain officers; to provide for an exclusion from public  
9 disclosure; to change certain provisions relating to a policy statement for comprehensive  
10 state-wide water management planning, guiding principles, and requirements of plans; to  
11 regulate interbasin and intrabasin transfers of water; to provide an effective date; to repeal  
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Section 2 of this Act shall be known and may be cited as the "Water System Interconnection,  
16 Redundancy, and Reliability Act."

17 **SECTION 2.**

18 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,  
19 is amended in Article 3, relating to wells and drinking water, by adding a new part to read  
20 as follows:

21 "Part 6

22 12-5-200.

23 The General Assembly finds that:

S. B. 442 (SUB)

(1) Water is an essential resource, the continued provision of which is necessary for the health, safety, and welfare of the State of Georgia; and

(2) It is in the best interests of the State of Georgia for public water systems in the Metropolitan North Georgia Water Planning District to evaluate their withdrawal, treatment, and distribution systems and to take proactive measures to reduce the risk of catastrophic interruptions of water service during emergencies.

12-5-201.

As used in this part, the term:

(1) 'Authority' means the Georgia Environmental Facilities Authority created by Code Section 50-23-3.

(2) 'District' means the Metropolitan North Georgia Water Planning District created by Code Section 12-5-572.

(3) 'Emergency plan' means the written emergency water supply plan developed as provided in Code Section 12-5-202.

(4) 'Essential water needs' means the minimum amount of water needed for residential and commercial means for food processing, drinking, toilet flushing, fire fighting, hospital use, and critical asset use and a portion of the system's unaccounted for water.

(5) 'Qualified system' means any public water system owned and operated by a city, county, or water authority in the district.

12-5-202.

(a) Subject to authorization as provided in subsection (c) of Code Section 12-5-203, not later than September 1, 2010, the authority shall issue a request for proposal for a thorough and detailed engineering study developing a district-wide emergency plan covering every qualified system. Such plan shall identify sufficient emergency water supply sources and detailed steps required to modify a qualified system's operations to accept or share water with adjacent water providers within the Metropolitan North Georgia Water Planning District during emergencies to supply essential water needs.

(b) The emergency plan shall evaluate risks and, where feasible, plan for a district-wide interconnection reliability target for immediate implementation of approximately 35 percent of the annual average daily demand and a long-range district-wide interconnection reliability planning goal of approximately 65 percent of the annual average daily demand.

(c) Such plan shall be based initially on the 2035 water demand forecasted by the district in 2009 and updated by a revised forecast every five years thereafter and shall include or be based upon:

(1) An evaluation of factors affecting water system reliability, including raw and finished water storage, infrastructure conditions, equipment redundancy, and existing interconnection capability;

(2) Detailed hydraulic studies to determine overall distribution system improvements required to meet projected demands;

(3) A consideration of various emergency situations, including, without limitation:

(A) The failure of the largest water treatment facility of a qualified system;

(B) The full unavailability of major raw water sources due to federal or state government actions;

(C) The limited or reduced availability of major raw water sources due to federal or state government actions;

(D) The short-term catastrophic failure of a water distribution system;

(E) The short-term contamination of a water supply system; and

(F) The short-term contamination of a raw water source making it unsuitable for use; provided, however, that the results of poor planning or inadequate infrastructure investments by a qualified system shall not constitute an emergency situation.

(4) An evaluation of the feasibility and cost effectiveness of providing multidirectional flows at existing and future interconnections with a pipe diameter equal to or greater than 12 inches;

(5) A continuously updated inventory of distribution system components, including good system maps;

(6) Steps that need to be taken to receive water from an adjacent utility within the Metropolitan North Georgia Water Planning District or to provide water to another utility within the district, including required new infrastructure and the location of such infrastructure for both the interconnection reliability target for immediate implementation and the long-range interconnection planning goal;

(7) Consideration of chemical compatibility, treatment requirements, water quality, operating pressure, and impact on water withdrawal permits;

(8) A detailed estimate of the costs of implementation for both the interconnection reliability target for immediate implementation and the long-range interconnection planning goal;

(9) A model intergovernmental agreement for sharing and pricing of water during emergency situations; and

(10) Creative financing options for implementation of recommended interconnection projects.

(d) Each qualified system shall coordinate with and assist the authority in the development of the emergency plan.

(e) The authority and its consultant shall meet at least once every three months with the district water supply technical coordinating committee to review the progress of the plan. The authority and its consultants shall receive and may incorporate the comments of the committee into the plan.

12-5-203.

(a) There shall be a technical panel as provided in this subsection. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint one member of the technical panel, each of whom shall be the director of a public water system located within the district. The Governor, the President of the Senate, and the Speaker of the House of Representatives or such officers' designees shall also serve on the technical panel.

(b) The authority and the technical panel shall use the provisions of Code Section 12-5-202 as a basis fully to define the water shortage scenarios to be evaluated in the emergency plan. The authority and the technical panel shall also prepare a preliminary scope of work statement for the plan consistent with the defined scenarios and Code Section 12-5-202.

(c) The authority shall submit by July 15, 2010, the preliminary scope of work statement to the Governor, the President of the Senate, and the Speaker of the House of Representatives to receive authorization to issue a request for proposals based on such preliminary scope of work statement not later than September 1, 2010.

(d) The authority shall modify the preliminary scope of work statement or the preparation of the emergency plan if specific water allocations are provided by final federal courts rulings, state compacts, or other mechanisms. The plan shall be based on such allocations.

12-5-204.

(a) The authority shall ensure the completion of the emergency plan not later than September 1, 2011, and shall submit the emergency plan to the director of the Environmental Protection Division of the Department of Natural Resources, the director of the Georgia Emergency Management Agency, the Governor, Lieutenant Governor, Speaker of the House of Representatives, and chairpersons of the Senate and House Committees on Natural Resources and Environment and of the Senate and House Committees on Appropriations not later than September 15, 2011.

(b) The authority shall update the emergency plan on the same schedule as updates for the district's water supply and water conservation management plans.

(c) The costs of producing the emergency plan shall be borne by the authority."

**SECTION 3.**

Said chapter is further amended by revising subsection (e) of Code Section 12-5-522, relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of plans, as follows:

"(e) The division shall make all water withdrawal permitting decisions in accordance with this chapter, the comprehensive state-wide water management plan that has been approved or enacted by the General Assembly as provided by this article, and any applicable regional water development and conservation plan, including, but not limited to, restrictions, ~~if any,~~ on diversion from or reduction of flows in other watercourses in accordance with Code Section 12-5-522.1. Any political subdivision or local water authority that is not in compliance with the plan shall be ineligible for state grants or loans for water projects, except for those projects designed to bring such political subdivision or local water authority into compliance with the plan."

**SECTION 4.**

Said chapter is further amended in Article 8, relating to comprehensive state-wide water management planning, by adding a new Code section to read as follows:

"12-5-522.1.

(a) As used in this Code section, the term:

(1) 'Donor basin' means a river basin from which a withdrawal or diversion of water occurs in an interbasin transfer.

(2) 'Interbasin transfer' means a withdrawal or diversion of water from one river basin followed by use or return of some or all of that water to a different river basin.

(3) 'Intrabasin transfer' means a withdrawal or diversion of water from a point within a subbasin within a river basin followed by the use and discharge of some portion of that water into a second subbasin within the same river basin.

(4) 'Raw water interbasin transfer' means an interbasin transfer of untreated water for treatment, use, and disposal in the receiving basin.

(5) 'Receiving basin' means a river basin to which all or a portion of water from another river basin is diverted and returned in an interbasin transfer.

(b)(1) Interbasin transfers may be permitted to meet water needs in areas facing limitations on their water resources, as indicated when the forecast consumption of water from a specific source approaches the defined consumptive use assessment, as long as the transfer does not unreasonably foreclose opportunities for water use in the donor basin.

(2) An application for a new or modified water withdrawal permit that would involve a new or increased interbasin transfer of raw water shall not be granted until consumptive use assessments have been completed for the affected water sources, and water

development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

(3) In evaluating an application for a new or modified water withdrawal permit that would involve a new or increased interbasin transfer, the director shall review and consider:

(A) Donor basin considerations, including but not limited to:

(i) The quantity of the proposed withdrawal and the stream flow of the donor basin, with special consideration for dry years and low-flow conditions;

(ii) The current and reasonably foreseeable future water needs of the donor basin, with special consideration for dry years and low-flow conditions;

(iii) Protection of water quality in the donor basin, with special consideration for dry years and low-flow conditions;

(iv) Any offsetting increases in flow in the donor basin that may be arranged through permit conditions;

(v) The number of downstream river miles from which water will be diverted as a result of the transfer; and

(vi) The connection between surface water and ground water in the donor basin and the effect of the proposed transfer on either or both;

(B) Receiving basin considerations, including but not limited to:

(i) Determination of whether or not the applicant's proposed use is reasonable, including consideration of whether the applicant has implemented water conservation practices and achieved reasonable water conservation goals;

(ii) Assessment of the waste-water treatment capacity of the receiving basin;

(iii) The supply of water presently available to the receiving basin as well as the estimates of overall current water demand and the reasonable foreseeable future water needs of the receiving basin;

(iv) The beneficial impact of any proposed transfer and the demonstrated capability of the applicant to effectively implement its responsibilities under the requested permit;

(v) The impact of the proposed transfer on water conservation;

(vi) The applicant's efforts to explore all reasonable options for use of reclaimed water and recycling of available resources to meet the needs of the receiving basin; and

(vii) Assessment of the adequacy of treatment capacity and current water quality conditions; and

(C) Considerations affecting both basins, including but not limited to:

(i) The economic feasibility, cost effectiveness, and environmental effects of the proposed transfer in relation to alternative sources of water supply;

(ii) The cumulative effects of the current and proposed interbasin transfers in each basin;

(iii) The requirements of the state and federal agencies with authority related to water resources;

(iv) The availability of water for responding to emergencies, including but not limited to drought, in the donor basin and the receiving basin;

(v) The effects, whether beneficial or detrimental, on offstream and instream uses;

(vi) The quantity, quality, location, and timing of water returned to the donor basin, receiving basin, and basins downstream;

(vii) Effects on interstate water use;

(viii) The cumulative effect on the donor basin and the receiving basin of any water transfer or consumptive use that is authorized or forecast; and

(ix) Such other factors as are reasonably necessary to carry out the purposes of this chapter.

(4) Interbasin transfers of water that occur in connection with mining, conveying, processing, sale, or shipment of minerals or other products transported for further processing or sale shall be exempt from limitations on interbasin transfers provided by this subsection.

(c)(1) Intrabasin transfers may continue to be undertaken to meet such practical water needs as are necessary for a water provider to meet the reasonable needs of users within its service area.

(2) If an application is made for a new or modified water withdrawal permit that would involve a new or increased intrabasin transfer that is to cross the jurisdictional boundaries of more than four counties, it shall not be granted until consumptive use assessments have been completed for the affected water sources, and water development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

(3) Intrabasin transfers of water that occur in connection with mining, conveying, processing, sale, or shipment of minerals or other products transported for further processing or sale shall be exempt from limitations on intrabasin transfers provided by this subsection.

(d) Nothing in this article shall modify or in any way affect the provisions of subsection (f) of Code Section 12-5-584."

235 **SECTION 5.**

236 This Act shall become effective upon its approval by the Governor or upon its becoming law  
237 without such approval.

238 **SECTION 6.**

239 All laws and parts of laws in conflict with this Act are repealed.